

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/2/2010 has been entered.

Response to Arguments

2. Applicant's arguments filed 3/2/2010 have been fully considered but they are not persuasive.

3. As to Applicant's argument, "that 'a number of addresses' as claimed is not equivalent to the number of messages sent, as taught by Fenton. The number of messages sent does not equate to the number of addresses, at least because plural messages can be sent to a single addressee" (Remarks, p. 6), the Examiner respectfully disagrees. It is clear from the Fenton application that there is a charge for each recipient of a message. "The pre-charging notification indicates to the recipient (addressee) prior to the recipient downloading a multimedia message whether the

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sender has paid for the message” (Fenton, [0039]). For at least the reason above, the rejection of the claim limitations is maintained.

Response to Amendment

4. The Examiner has stated the below column and line numbers as examples. All columns and line numbers in the reference and the figures are relevant material and Applicant should take the entire reference into consideration upon the reply to this Office Action.

5. Claim 1 has been amended.

6. Claims 6-13 have been withdrawn from consideration.

7. Claims 1-5 and 14 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,771,289 to Kuzma in view of Mobile Tech News "Logica first to enable MMS Intercarrier messaging" (hereinafter MTN) in further view of US Patent Application Publication No. 2003/0193967 to Fenton et al. (hereinafter Fenton).

As to claim 1, Kuzma teaches:

- a. Sending, by sender terminal, a multimedia message which includes an electronic stamp (transmitting electronic messages with electronic stamps and the message can be composed of images and text) (Kuzma, col. 2, lines 26-36 and col. 4, lines 65-67).

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b. Verifying the validity of the electronic stamp by the multimedia message service center (electronic post office checks stamp for authenticity) (Kuzma, col. 5, lines 58-65).

c. Wherein the electronic stamp is an element associated with paying for sending the message, and includes a value of the stamp (stamp is affixed to the message in an amount appropriate to the size of the message) (Kuzma, col. 4, lines 36-44).

Kuzma fails to teach the multimedia messaging service being a mobile Multimedia Messaging Service Center. However, in an analogous art, MTN teaches the use of Multimedia Messaging Service environment using a Multimedia Messaging Service Center (MTN, MMS Center). Therefore, one of ordinary skill in the art at the time the invention was made would have been motivated to implement the electronically stamped multimedia messaging payment system of Kuzma with the Multimedia Messaging Service environment and center design of MTN in order to take advantage of allowing the sending of messages between users of different networks and increase revenue for mobile operators as suggested by MTN (MTN, pp. 1-2).

Kuzma as modified teaches varying the value of the electronic stamp according to the size of the message (Kuzma, col. 4, lines 27-34), but does not expressly mention the cost of transmission being tied to the type of message or the number of recipients. However, in an analogous art, Fenton teaches:

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d. Wherein the value of the stamp depends on a number of addresses that the message is to be sent to (charging criteria for multimedia messages include message type, number of messages sent, sender/recipient, ...) (Fenton, [0039]).

Therefore, one of ordinary skill in the art at the time the invention was made would have been motivated to implement the Multimedia Messaging Service of Kuzma as modified with fee structure of Fenton in order to provide flexible charging schedules for MMS users as suggested by Fenton (Fenton, [0007]).

As to claim 2, Kuzma as modified teaches wherein said Multimedia Messaging Service message comprises a header containing parameters relating to the transportation and the content of said message and a body containing elements of said message (messages include a header with addressee information and a message body) (Kuzma, col. 4, lines 5-20) and one parameter in said header is a field corresponding to the stamping of the message (stamp is affixed to header) (Kuzma, col. 5, lines 48-57).

As to claim 3, Kuzma as modified teaches the value associated with said stamping field of said header is an encrypted numerical value (encoded electronic stamp) (Kuzma, col. 5, lines 35-40).

As to claim 4, Kuzma as modified teaches wherein said value associated with said stamping field in said header is a binary value indicating the presence of said electronic stamp in said message body (Kuzma, col. 5, lines 47-57).

As to claim 5, Kuzma as modified teaches wherein a body part of said message body contains said electronic stamp in the form of an encrypted numerical value (stamp is placed on a message with an appropriate value) (Kuzma, col. 4, lines 35-45).

As to claim 14, Kuzma as modified teaches wherein the terminal is a mobile telephone (GSM handset) (MTN, p. 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM S. POWERS whose telephone number is (571)272-8573. The examiner can normally be reached on m-f 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571 272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. S. P./
Examiner, Art Unit 2434

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4/9/2010
/Kambiz Zand/
Supervisory Patent Examiner, Art Unit 2434